IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 12TH SEPTEMBER 2007 / 21ST BHADRA 1929

Bail Appl..No. 5277 of 2007()

CRIME NO.12 OF 2007 OF EXCISE RANGE MANNARKKAD

: PETITIONER/ACCUSED

RAMANKUTTY, S/O. KUNCHAN,
KANKAMARE HOUSE, PATTASSERI VILLAGE,
MANNARKKAD.

BY ADV. SRI.R.GIREESH VARMA

RESPONDENTS: COMPLAINANT

STATE OF KERALA, REPRESENTED BY
THE EXCISE INSPECTOR, MANNARKKAD EXCISE RANGE,
THROUGH PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.
(CRIME NO.12/2007 OF EXCISE RANGE OFFICE,
MANNARKKAD).

BY PUBLIC PROSECUTOR SRI.JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 12/09/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

B.A.No.5277 of 2007

Dated this the 12th day of September, 2007

ORDER

Application for anticipatory bail. The petitioner faces allegations under the Kerala Abkari Act. He was allegedly found to keep in his possession about 2.5 litres of Indian Made Foreign Liquor. Seeing the excise party, he allegedly took to his heels. Assuming that the possession of Indian Made Foreign Liquor, notwithstanding the fact that it had the security stickers of the Beverages Corporation and notwithstanding the fact that the quantity of Indian Made Foreign Liquor possessed did not exceed the maximum which he under law is entitled to possess, that the possession was for sale the excise officials have initiated proceedings. The crime was registered. Investigation is in progress. The petitioner apprehends imminent arrest.

2. The learned counsel for the petitioner submits that at least at the moment it has to be held that it is irrational on the part of the officials to assume that the petitioner was carrying such quantity of Indian Made Foreign Liquor for the purpose of sale. It is true that on an earlier occasion also, a similar allegation has been raised against the petitioner. But in the totality of circumstances, there is absolutely

no justification in subjecting the petitioner to suffer the trauma of arrest and incarceration. The petitioner shall co-operate with the investigators. He shall make himself available for interrogation before the Investigating Officer. But the petitioner may be granted anticipatory bail, it is prayed.

3. The learned Public Prosecutor submits that two circumstances are against the petitioner. Firstly that he is an accused on an earlier occasion, wherein also, identical allegations alone were there against the petitioner. Secondly, it is contended that his conduct of running away on seeing the excise party must also raise legitimate suspicion.

4. I shall not embark on a detailed discussion about the acceptability of the allegations and the reasonableness of the inferences drawn by the officials. Suffice it to say that on an anxious consideration of all the relevant inputs, I am satisfied that interests of justice will be served ideally by granting anticipatory bail to the petitioner subject, of course, to appropriate terms and conditions which shall safeguard the interests of a fair, efficient and expeditious investigation.

5. In the result, the Bail Application is, allowed. The following directions are issued under Section 438 Cr.P.C.

i) The petitioner shall appear before the learned Magistrate at 11 a.m on 19.09.2007. He shall be enlarged on regular bail on his executing a bond for Rs.25,000/- (Rupees Twenty Five thousand only) with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate;

ii) The petitioner shall make himself available for interrogation before the Investigating Officer between 10 a.m and 3 p.m on 20.09.2007 and thereafter as and when directed by the Investigating Officer in writing to do so;

iii) If the petitioner does not appear before the learned Magistrate as directed in clause (i), directions issued above shall thereafter stand revoked and the police shall be at liberty to arrest the petitioner and deal with him in accordance with law as if those directions were not issued at all;

iv) If the petitioner were arrested prior to his surrender on 19.09.07 as directed in clause (1) above, he shall be released from custody on his executing a bond for Rs.25,000/- (Rupees Twenty Five thousand only) without any sureties undertaking to appear before the learned Magistrate on 19.09.07.

(R.BASANT, JUDGE)

rtr/-